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U.S. DISTRICT COURT
 DISTRICT OF NEVADA
 FILED

FEB 28 2006

CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT

DEPUTY

DISTRICT OF NEVADA

7 HARVEYS TAHOE MANAGEMENT
 8 COMPANY, INC. doing business as
 9 HARRAH'S CASINO HOTEL LAKE
 TAHOE,

Case No. CV-N-05-0149-HDM (RAM)

10 Plaintiff,

11 vs.

12 SHIBLEY HORANEY also known as
 13 SHIBLEY HARRY HORANEY also known
 14 as SHIVLEY H. HORANEY also known
 15 as SAM HORANEY also known as S.H.
 HORANEY, individually, and DOES 1
 through 10, inclusive,

Defendants.

MOTION TO MODIFY DISCOVERY PLAN AND SCHEDULING ORDER
(First Request)

17 Plaintiff HARVEYS TAHOE MANAGEMENT COMPANY, INC., doing business as
 18 HARRAH'S CASINO HOTEL LAKE TAHOE, by and through counsel, hereby moves to
 19 amend the Discovery Plan and Scheduling Order filed on September 8, 2005. In support
 20 of this motion for modification of the Discovery Plan and Scheduling Order, it is submitted
 21 that good cause exists to reopen and extend the discovery deadline because it recently
 22 became clear that informal resolution of this case is unlikely, discovery remains to be
 23 completed, and plaintiff intends to file a dispositive motion which may negate the necessity
 24 of trial in this matter.

25 As the court is aware, shortly after the filing of the Stipulated Discovery Plan, the
 26 parties been discussing informal resolution of this case. Accordingly, aside from the
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1 required initial disclosures, the parties did not engage in formal discovery pending resolution
 2 of those discussions. Settlement communications between the parties have stalled.
 3 Discovery that remains to be completed includes written discovery, the deposition of the
 4 plaintiff and the depositions of representatives of Harrah's. Accordingly, an extension of 120
 5 days from the currently scheduled dates is sought by plaintiff's counsel.¹

6 Accordingly, plaintiff submits the following proposed modification of the Discovery
 7 Plan and Scheduling Order:

- 8 (1) Discovery will be completed on or before May 5, 2006.
- 9 (2) The deadline for disclosing experts will be March 6, 2006, and the
 10 deadline for disclosing rebuttal experts will be April 3, 2006.
- 11 (3) Dispositive motions will be filed by June 5, 2006.
- 12 (4) The joint pre-trial order will be filed by July 7, 2006, as the 30th day after
 13 the filing of dispositive motions is a Saturday. This deadline will be suspended if a
 14 dispositive motion is filed.

15 Pursuant to LR26-4, the last day to file and serve an application to extend the dates
 16 set by this discovery plan shall be no later than April 14, 2006. Motions in limine shall be
 17 filed in accordance with LR 16-3(b), unless otherwise ordered by the court.

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 25 The undersigned recognizes that a motion to extend discovery should have been filed on or before
 26 February 14, 2006, pursuant to LR 26-4. As the court is aware from plaintiff's interim status report,
 27 plaintiff's counsel attempted to obtain a stipulation from defense counsel to extend these deadlines
 well before the February 14, 2006 deadline. Only recently did counsel realize the stipulation had not
 been returned and filed. At this time, counsel is attempting, in good faith, to get this case back on track
 and would request the court exercise its discretion in granting this untimely motion, based upon the
 circumstances of this case. The undersigned can see no prejudice that would result to defendant in
 extending these deadlines in that he has not conducted any discovery to date either.

1 The trial in this matter has not been set as of the date of this motion. This is the first
2 request for a modification of the Discovery Plan and Scheduling Order.

3 DATED this 28 day of February, 2006.

LEMONS, GRUNDY & EISENBERG
Attorneys for Plaintiff

By: David R. Grundy
David R. Grundy, Esq.
Tiffinay Barker Pagni, Esq.

ORDER

IT IS SO ORDERED.

11 DATED this 2nd day of March, 2006.

**HON. ROBERT A. McQUAID
UNITED STATES MAGISTRATE JUDGE**

CERTIFICATE OF MAILING

Pursuant to FRCP 5(b), I certify that I am an employee of Lemons, Grundy & Eisenberg and that on February 28, 2006, I deposited in the United States Mail, with postage fully prepaid, a true and correct copy of the within **MOTION TO MODIFY DISCOVERY PLAN AND SCHEDULING ORDER (First Request)**, addressed to the following:

Allen Hyman, Esq.
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Kathy Cezario
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